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10/666,309	09/19/2003	Thomas E. Creamer	BOC9-2003-0023 (392)	7918

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AKERMAN SENTERFITT
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EXAMINER

PARK, JEONG S

ART UNIT	PAPER NUMBER
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2109

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary

Application No.

10/666,309

Applicant(s)

CREAMER ET AL.

Examiner

Jeong S. Park

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/9/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

In specification, page 14, paragraph [0044], line 2, the reference character "350 for the ghost input" should be corrected as —352— for clear understanding.

Appropriate correction is required.

Claim Objections

2. Claims 3, 9, 10-13, 19, and 25 are objected to because of the following informalities:

In claim 3, line 3, the phrase "usage statistics" should be corrected as —said usage statistics-- for clear understanding of the claim;

In claim 9, line 4, the phrase "selected host software object" should be corrected as —said selected host software object-- for clear understanding of the claim;

In claim 10, line 7, the phrase "different grids" should be corrected as —said different grids-- for clear understanding of the claim;

In claim 11, line 3, the phrase "said ghost agents" should be corrected as —ghost agents-- for clear understanding of the claim;

In claim 19, line 3, the phrase "usage statistics" should be corrected as —said usage statistics-- for clear understanding of the claim; and

In claim 25, line 5, the phrase "selected host software object" should be corrected as —said selected host software object-- for clear understanding of the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 and 26 are drawn towards a method or a system for evaluating system behavior of an application domain comprising identifying a host software object, associating a software object, replicating host actions, recording the replicated actions, and moving the associated software object with the host software object. This is an abstract idea. In order for an abstract claim to be statutory, it must result in useful, concrete, and tangible results. The final result achieved by the claimed invention does not produce any tangible result.

Claims 2-9, which are dependent on claim 1, do not add any tangible results to the claim and thus are rejected for the same.

Claim 10 is drawn towards a system for logging application domain information comprising an application domain to utilize computing resources, at least one host software object to execute actions, and at least one ghost agent to record the executed actions. This is an abstract idea. In order for an abstract claim to be statutory, it must result in useful, concrete, and tangible results. The final result achieved by the claimed invention does not produce any tangible result.

Claims 11-13, which are dependent on claim 10, do not add any tangible results to the claim and thus are rejected for the same.

Claim 14 is drawn towards a ghost agent comprising a ghost log to record activities, a ghost identifier to identify the ghost agent, and a ghost controller to manage interactions. This is an abstract idea. In order for an abstract claim to be statutory, it must result in useful, concrete, and tangible results. The final result achieved by the claimed invention does not produce any tangible result.

Claims 14-16, which are dependent on claim 14, do not add any tangible results to the claim and thus are rejected for the same.

Claim 17 is drawn towards a computer program comprising steps of identifying a host software object, associating a software object, replicating host actions, recording the replicated actions, and moving the associated software object with the host software object. This is an abstract idea. In order for an abstract claim to be statutory, it must result in useful, concrete, and tangible results. The final result achieved by the claimed invention does not produce any tangible result.

Claims 18-25, which are dependent on claim 17, do not add any tangible results to the claim and thus are rejected for the same.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1-7, 9-23, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Gruyer et al. (hereinafter Gruyer)(U.S. Patent Pub. No. 2002/0112048 A1).

Regarding claims 1, 17, and 26, Gruyer teaches as follows:

A method for evaluating system behavior of an application domain (web sites, reference character 114 in figure 1)) within a grid environment (wherein the grid environment is interpreted as the World Wide Web because the web services on the Internet is the distributed shared computer environment) comprising the steps of (see, e.g., page 1, paragraph [0009]);

Identifying a host software object (user's web browser, reference character 102 in figure 1) within said application domain (web sites)(user's web browser is identified when the user visits a web site to be monitored, see, e.g., page 3, paragraph [0035], lines 1-8);

Associating a software object (agent software, reference character 106 in figure 1) with said host software object (monitoring agent software is downloaded and installed on the user device, see, e.g., page 3, paragraph [0035], lines 8-13);

Within said associated software object, replicating host actions (user's action or behavior) and recording said replicated actions (the agent software monitors and records user's behavior information, see, e.g., page 3, paragraph [0036]);

Moving said host software object from one grid (web site since a web site comprises of multiple web servers) within said grid environment to another grid (a user

to directly access a selected entry point into specific area of a selected web site, see, e.g., page 4, paragraph [0049] and figure 3); and

Responsively moving said associated software object in accordance with movement of said host software object (the agent software runs automatically to monitor and record the user actions as the user navigates the Internet via a web browser, see, e.g., page 3, paragraph [0041], lines 6-10).

Regarding claims 2 and 18, Gruyer teaches that a step of determining usage statistics (web usage) for said application domain (the selected web site) based at least in part upon said recorded actions (the monitored information stored in a database, reference character 120 in figure 1, shows the web usage, see, e.g., page 4, paragraph [0046]).

Regarding claims 3 and 19, Gruyer teaches that said determining step further comprising the step of determining usage statistics for application domain features of said application domain (see, e.g., page 1, paragraph [0011] and figure 4, 5).

Regarding claims 4 and 20, Gruyer teaches that a step of optimizing performance of said application domain based upon said usage statistics (analyzer software analyses the content of the stored monitored information and produces various reports in order to bench mark and better service their users, see, e.g., page 4, paragraph [0044], lines 8-14).

Regarding claims 5 and 21, Gruyer teaches as follows:

Said replicated actions are passive actions comprising the step of preventing said replicated actions from operationally executing in said grid environment (monitoring

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agent software is downloaded and installed on the user device, see, e.g., page 3, paragraph [0035], lines 8-13, also has a minimal impact on the user device, see, e.g., page 3, paragraph [0042], lines 9-12).

Regarding claims 6 and 22, Gruyer teaches as follows:

Determining a location for logging data that is external (over a network) to said associated software object (agent software package includes the URL of a server, 1102 in figure 11, as a logging data location, see, e.g., page 8, paragraph [0087], lines 1-6 and figure 11); and

Conveying said recorded replicated actions to said determined location. (the agent software, 106 in figure 1, sends the monitored information over a network to a server, 118 in figure 1, and stored in a database, 120 in figure 1, see, e.g., page 4, paragraph [0044]).

Regarding claims 7 and 23, Gruyer teaches as follows:

Disassociating step of said associated software object (agent) from said host software object (current web browser session); and

Associating step of said software object (agent) with a different host software object (different web browser session) within said application domain (the agent monitors a different web browser session after being ended with the current web browser session, see, e.g., page 8, paragraph [0083] and [0084]).

Regarding claims 9 and 25, Gruyer teaches as follows:

The steps of selecting a plurality of host software objects within said application domain (the user panel, 104 in figure 1, refers a list of users who have consented to

being monitored to a same selected set of web sites, see, e.g., page 3, paragraph [0040]); and

For each selected host software object, repeating said associating step (monitoring agent software is downloaded and installed on the user device, see, e.g., page 3, paragraph [0035], lines 8-13), said replicating recording steps (the agent software monitors and records user's behavior information, see, e.g., page 3, paragraph [0036]).

Regarding claim 10, Gruyer teaches as follows:

A system for logging application domain information within a grid environment (wherein the grid environment is interpreted as the World Wide Web because the web services on the Internet is the distributed shared computer environment) comprising (see, e.g., page 1, paragraph [0009]);

An application domain that utilizes computing resources from a plurality of different grids in said grid environment (web site is a collection of web files reside from a number of servers located in many different geographic places, see, e.g., page 2, paragraph [0030]);

At least one host software object (user's web browser, reference character 102 in figure 1) configured to execute actions within said application domain, wherein different ones of said executed actions are executed within different grids of said grid environment (the user navigates the Internet, application domain, via the web browser, see, e.g., page 3, paragraph [0041]); and

At least one ghost agent (agent software, reference character 106 in figure 1)

configured to record said executed actions for an associated host software object (the agent software monitors and records user's behavior information, see, e.g., page 3, paragraph [0036]).

Regarding claim 11, Gruyer teaches as follows:

At least one host software object (web browser operated by the panel users comprises a plurality of host software objects (it supports one or more panel users which are referred to users being monitored, see, e.g., page 5, paragraph [0055]); and

At least one ghost agent comprises a plurality of said ghost agents (one or more agents running on user devices, see, e.g., page 9, paragraph [0088], lines 25-34).

Regarding claim 12, Gruyer teaches that an application domain data store (database, 120 in figure 1) configured to receive messages from said ghost agents (the server, 118 in figure 1, collects the user behavioral information from the agents and stores in a database, see, e.g., page 4, paragraph [0044], lines 5-8).

Regarding claim 13, Gruyer teaches that an application analyzer (analyzer software) configured to analyze application-specific data gathered by said ghost agents (analyzer software that data mines and analyses the content of the database and produces various reports, see, e.g., page 4, paragraph [0044], lines 8-10).

Regarding claim 14, Gruyer teaches as follows:

A ghost agent (agent software, reference character 106 in figure 1) comprising;

A ghost log configured to record application-specific activities performed by a host software object (user's web browser, reference character 102 in figure 1)(the agent software monitors and records user's behavior information, see, e.g., page 3,

paragraph [0036]);

A ghost identifier (a version of the executable agent) configured to identify said ghost agent to components within a grid environment (see, e.g., page 9, paragraph [0089]); and

A ghost controller (reference character 608 in figure 6) for managing interactions between said ghost agent and said grid environment, wherein said ghost agent can move from grid to grid within said grid environment (see, e.g., page 5, paragraph [0056]).

Regarding claim 15, Gruyer teaches that means for linking (scan browser dynamic link library, 620 in figure 6) said ghost agent with said host software object (hooking mechanism enables the scan browser dynamic link library module to start as soon as the web browser is launched by the panel user, see, e.g., page 5, paragraph [0056], lines 6-9).

Regarding claim 16, Gruyer teaches as follows:

Means for disassociating said ghost agent from said host software object (current web browser session); and

Means for linking said disassociated ghost agent to a different host software object (different web browser session)(the agent monitors a different web browser session after being ended with the current web browser session, see, e.g., page 8, paragraph [0083] and [0084]).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gruyer et al. (hereinafter Gruyer)(U.S. Patent Pub. No. 2002/0112048 A1).

Regarding claims 8 and 24, Gruyer discloses all the limitations of claim as explained above regarding claim 7 except for the cloning the associated software and associating the cloned associated software with a different host software object.

It would have been obvious to one having ordinary skill in the art at the time of the invention was made to transfer a clone of the same agent software object to monitor multiple host software objects, since it resolves the same problem of monitoring different host software object. Also the cloning is interpreted a copy of the associated software object from a hard disk to a memory to execute the required process.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeong S. Park whose telephone number is 571-270-1597. The examiner can normally be reached on Monday through Thursday 7:30 - 5:00 EST.

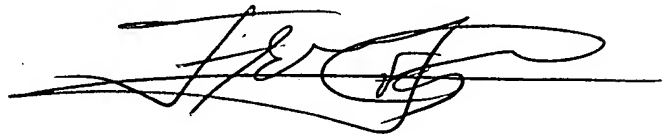
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Jules can be reached on 571-272--6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JSP
April 9, 2007

FRANTZ JULES
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Frantz Jules', is written over a horizontal line.